

STATE OF UTAH  
OFFICE OF THE ATTORNEY GENERALJAN GRAHAM  
ATTORNEY GENERALCAROL CLAWSON  
Solicitor GeneralREED RICHARDS  
Chief Deputy Attorney GeneralPALMER DEPAULIS  
Chief of Staff

June 8, 1998

Lowell Braxton  
Acting Director  
Utah Division of Oil, Gas &  
Mining  
1594 West North Temple,  
Suite 1210, Box 145801  
Salt Lake City, UT  
84114-5801

Mary Ann Wright  
Deputy Director of Mining  
Utah Division of Oil, Gas &  
Mining  
1594 West North Temple,  
Suite 1210, Box 145801  
Salt Lake City, UT  
84114-5801

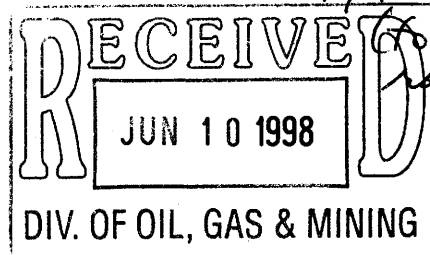
Dave Lauriski  
Chairman  
Utah Board of Oil, Gas &  
Mining  
c/o Energy West Mining Co.  
739 East 2900 South  
Box 7  
Price, UT 84501

Re: Castle Valley Special Service District v. Board of Oil, Gas & Mining

Dear Lowell, Mary Ann, and Dave:

For your information about the status of the above appeal, enclosed please find a copy of my settlement letter of June 8, 1998 to counsel for the Water Users.

Very truly yours,

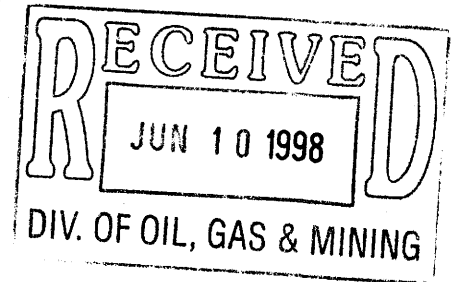
Patrick J. O'Hara  
Assistant Attorney Generalcc: Daniel G. Moquin, Esq. (w/encl)  
Encl.

# STATE OF UTAH

OFFICE OF THE ATTORNEY GENERAL



JAN GRAHAM  
ATTORNEY GENERAL



CAROL CLAWSON  
Solicitor General

REED RICHARDS  
Chief Deputy Attorney General

PALMER DePAULIS  
Chief of Staff

June 8, 1998

J. Craig Smith, Esq.  
NIELSEN & SENIOR, P.C.  
1100 Eagle Gate Tower  
60 East So. Temple  
Salt Lake City, UT 84111

Jeffrey W. Appel, Esq.  
Benjamin T. Wilson, Esq.  
APPEL & WARLAUMONT  
1100 Boston Building  
9 Exchange Place  
Salt Lake City, UT 84111

Re: Castle Valley Special Service District v. Board of Oil, Gas & Mining

Dear Craig, Jeff and Ben:

I am writing with regard to our recent settlement discussions concerning the above appeal to the Utah Supreme Court. This letter is in response to the draft "Stipulated Settlement Agreement" sent by Ben Wilson to Craig Smith, Dan Moquin and me by email on May 15, 1998 and, in a modified form, again on May 18, 1998 (the "May Draft").

The bottom line is that the May Draft is not acceptable to the Board of Oil, Gas & Mining (the Board"), whom I represent in this matter, and the Division of Oil, Gas & Mining ("DOGM"), whom Dan Moquin represents. This letter explains why, and concludes with an alternative settlement proposal.

The Board and DOGM are regulatory agencies with a wide range of duties concerning hydrological issues imposed on them (and those whom they regulate) under Utah's federally-mandated regulatory program for coal mining. Under law, the Board and DOGM are duty-bound to apply the coal regulatory law fairly and impartially to all persons who come before the agencies, including, of course, Co-Op Mining Co. (the "Operator") and members of the public, such your clients (the "Water Users").

m-jcs2.698

Under all the circumstances, the Board and DOGM are not willing to change their regulatory relationship with the parties. Rather than voluntarily assuming extra and special contractual duties applicable only to the Operator and the Water Users, the Board and DOGM desire to maintain the existing, neutral, arms-length regulatory relationship with all parties based solely on the legal requirements of the Utah Coal Program. Detailed settlement negotiations based on the May Draft simply would not bear fruit.

Although the Operator has, so far at least, prevailed in this case concerning the Water Users' challenge to its five year permit renewal, the Water Users and the Operator still, as between themselves, might be able to negotiate a reasonable side settlement agreement on water monitoring issues. Indeed, the Board and DOGM routinely encourage management of disputing parties to meet with each other. When they meet with an open mind, parties to long-standing disputes often can find common ground through less expensive (and less formal) avenues of alternative dispute resolution. Perhaps the Water Users' management team will be able to persuade the Operator's management team voluntarily to assume extra water monitoring burdens which go beyond the numerous requirements already imposed on the Operator under the State's comprehensive coal regulatory program.

The Board and DOGM do not need to be parties to a private water monitoring contract. The Board and DOGM are not opposed to any side settlement agreement between the Water Users and the Operator, so long as (1) such a side-agreement does not purport to alter, diminish or frustrate any of the Operator's non-negotiable hydrological duties under the State's coal regulatory program, and (2) such a side-agreement does not purport to enlarge or diminish the non-negotiable jurisdiction, legal duties and administrative prerogatives of the relevant State and/or federal agencies.

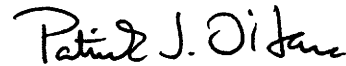
Finally, while every case comes with its inherent quotient of litigation risk, the Board and DOGM sincerely feel that the Board's comprehensive and well-reasoned 64-page decision of March 6, 1998 on the collateral estoppel question has a reasonably good chance of being affirmed on appeal by the Utah Supreme Court. The Board and DOGM, therefore, jointly propose a simple, straight-forward settlement mechanism whereby the Water Users and the other parties merely stipulate and move for an order that the appeal to the Supreme Court shall be dismissed with prejudice, with the parties to bear

Messrs. Smith, Appel & Wilson  
June 8, 1998  
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their respective attorneys fees and costs. If the Board's and DOGM's settlement proposal is acceptable to your clients, please let me know and I will be happy to draft and circulate to all counsel a "Stipulation, Motion and Order of Dismissal" consistent with this paragraph.

Very truly yours,



Patrick J. O'Hara  
Assistant Attorney General

cc:

Daniel G. Moquin, Esq.  
Assistant Attorney General  
Utah Attorney General's Office  
1594 West North Temple, Suite 300  
P.O. Box 140855  
Salt Lake City, UT 84114-0855